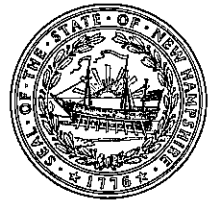




The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner
February 19, 2009

The Honorable Judith Spang, Chairman
Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, New Hampshire 03301

Re: HB 681, relative to aquatic resource compensatory mitigation

Dear Chairman Spang:

Thank you for the opportunity to comment on HB 681 that would add activities for which payment may be accepted by the Department of Environmental Services (DES) for an unavoidable loss of aquatic resource functions. DES supports this bill with the proposed amendment recommended below, which would make RSA 482-A consistent with the Aquatic Resource Mitigation (ARM) Fund provisions of the U.S. Army Corps of Engineer's New Hampshire State Programmatic General Permit (SPGP).

DES recommends that Paragraph 1 of HB 681 be modified to amend RSA 482-A: 28 as follows;

I. Impacts less than ~~one-acre~~ three acres of wetlands and meets all other criteria for a United States Army Corps of Engineers state programmatic general permit.

II. ~~Exceeds one-acre of impact for a public roadway or a public utility project and meets the criteria for a United States Army Corps of Engineers state programmatic general permit~~

This broadens the proposed amendment to include all projects with impacts of less than three acres. With the proposed change to Paragraph I, Paragraph II is not necessary because these projects are a subset of those referenced in Paragraph I. Under the SPGP, projects are not eligible for participation in the ARM Fund program if the impacts are greater than three acres.

Since the inception of the ARM Fund three years ago, DES has issued only ten permits for projects with impacts between one and three acres that were not public benefit projects. The average impacts of these projects were slightly more than one and a half acres. Therefore, this change is expected to apply to a relatively small number of projects.

Thank you for this opportunity to comment on this bill. Please feel free to call me at 271-3503, or Collis Adams at 271-4054, if you have any questions or need additional information.

Very truly yours,

for Michael Wells, AS&K Comm.
Thomas S. Burack
Commissioner

Senator Reynolds
Representatives E. Merrick, Russell, S. Merrick, and Sad